

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC**

In the Matter of:

Request for Waiver and Review )  
of the Decision of the )  
Universal Service Administrator by )  
)

KIPP Inc. )  
BEN Number: 216840 )

CC Docket No: 02-6

File No. SLD- 433110

Schools and Libraries Universal Service )  
Support Mechanism )

Wireline Competition Bureau )

## REQUEST FOR WAIVER AND REVIEW

## INTRODUCTION

KIPP Inc. (“the School District”), by its undersigned representative, hereby requests that the Commission (1) waive its 60-day appeal rule because the School District never received a copy of USAC’s Commitment Adjustment Decision (“COMAD”); (2) order USAC to reissue the COMAD, which would give the School the 60-day appeal period to which it is entitled under the Commission’s rules; and (3) order USAC to terminate its collections efforts against the School District immediately in connection with FRN No. 1205994, pending the outcome of this matter.

Alternatively, the School requests that the Commission review USAC's Demand Payment Letter dated April 14, 2011, and reverse the underlying decision. Because the Payment Demand Letter gives the School District only 30, rather than 60, days to respond, USAC has, in effect, unilaterally shortened the appeal period by a full 30 days., leaving the School no choice but to file this appeal prematurely. The School will investigate this matter further and supplement this filing with additional facts and discussion shortly, no more than 60 days from the date of USAC's Demand Payment Letter. Under this alternative too, USAC should be ordered to terminate its collection efforts immediately.

## **DISCUSSION**

On April 14, 2011, USAC mailed the Demand Payment Letter attached as Exhibit A to the School District's contact person from several years ago, Catherine North. Ms. North has not been employed at the District for over 5 years. Consequently, this letter was returned to USAC as undeliverable. A copy of an email from USAC confirming that the Demand Payment Letter had been returned as undeliverable is attached as Exhibit B.

As the email shows, the School District was not receiving mail addressed to Catherine North and, therefore, never received a copy of the COMAD. Thus the School District never had an opportunity to respond to the alleged program violation referenced in it. Indeed, it was not until the School District received USAC's Demand Payment Letter that the School District discovered that there even was a problem. The School District will supplement this filing with a full discussion of the alleged rule violation within one of the two possible appeal periods – i.e., 60 days from the date of the Demand Payment Letter or 60-days from the date that USAC reissues its COMAD.

For the reasons stated above, the School requests that the Commission direct USAC to halt all current proceeding against it, and start the process over by reissuing to the School a copy of the COMAD that it never received. This would provide the School with the required 60 days in which to appeal any adverse decision from USAC. Alternatively, the School respectfully requests that the Commission (1) grant the School's Request for Review on the basis of this timely appeal of USAC's Demand payment Letter, or (2) waive the 60-day appeal deadline in connection with the COMAD, which the School never received, and grant the School's Request for Review on that basis.

Respectfully submitted on behalf of KIPP Inc.,



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Cathy Cruzan, President  
Funds For Learning, LLC  
2575 Kelley Pointe Parkway, Suite 200  
Edmond, OK 73013  
405-341-4140

Eric J. Kot, Chief Information Officer  
KIPP Inc.  
10711 KIPP Way Drive  
Houston, TX 77099  
832-328-1051 ext 1578



Schools & Libraries Division

**Demand Payment Letter**

**( Funding Year 2004: July 1, 2004 - June 30, 2005 )**

April 14, 2011

Catherine North

KIPP ACADEMY

10711 KIPP WAY

HOUSTON, TX 77099

|                                  |              |
|----------------------------------|--------------|
| Re: Form 471 Application Number: | 433110       |
| Funding Year:                    | 2004         |
| Applicant's Form Identifier:     | KIPPHOU04    |
| Billed Entity Number:            | 216840       |
| FCC Registration Number:         | 0013104088   |
| SPIN:                            | 143030052    |
| Service Provider Name:           | Calence, LLC |
| Service Provider Contact Person: | Cathi Whelan |
| Payment Due By:                  | 5/14/2011    |

You were previously sent a Notification of Commitment Adjustment Letter informing you of the need to recover funds for the Funding Request Number(s) (FRNs) listed on the Funding Commitment Adjustment Report (Report) attached to the Notification of Commitment Adjustment Letter. A copy of that Report is attached to this letter.

The balance of this debt is due within 30 days from the date of this letter. Failure to pay the debt within 30 days from the date of this letter could result in interest, late payment fees, administrative charges, and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at [http://www.fcc.gov/debt\\_collection/faq.html](http://www.fcc.gov/debt_collection/faq.html).

If the Universal Service Administrative Company (USAC) has determined that both the applicant and the service provider are responsible for a Program rule violation, then, pursuant to the Order on Reconsideration and Fourth Report and Order (FCC 04-181), USAC will seek recovery of the improperly disbursed amount from BOTH parties and will continue to seek recovery until either or both parties have fully paid the debt. If USAC has determined that both the applicant and the service provider are responsible for a Program rule violation, this was indicated in the Funding Commitment Adjustment Explanation on the Funding Commitment Adjustment Report.

If USAC is attempting to collect all or part of the debt from both the applicant and the service provider, then you should work with your service provider to determine who will be repaying the debt to avoid duplicate payment. Please note, however, that the debt is the responsibility of both the applicant and service provider. Therefore, you are responsible for ensuring that the debt is paid in a timely manner.

Please remit payment for the full "Funds to be Recovered from Applicant" amount shown in the Report. To ensure that your payment is properly credited, please include a copy of the Report with your check. Make your check payable to the Universal Service Administrative Company (USAC).

If sending payment by U. S. Postal Service or major courier service (e.g. Airborne, Federal Express, and UPS) please send check payments to:

Bank of America  
c/o Universal Service Administrative Company (105056)  
1075 Loop Road  
Atlanta, GA 30337  
Phone 404-209-6377

If you are located in the Atlanta area and use a local messenger rather than a major courier service, please address and deliver the package to:

Universal Service Administrative Company  
P.O. Box 105056  
Atlanta, GA 30348-5056  
Phone 404-209-6377

Local messenger service should deliver to the Lockbox Receiving Window at the above address.

**Payment is due within 30 days from the date of this letter.**

Complete Program information is posted to the SLD section of the USAC website at [www.usac.org/sl/](http://www.usac.org/sl/). You may also contact the SLD Client Service Bureau by email using the "Submit a Question" link on the SLD website, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.

Universal Service Administrative Company  
Schools and Libraries Division

cc: Cathi Whelan  
Calence, LLC

**Funding Commitment Adjustment Report**  
**Form 471 Application Number: 433110**

|                                       |                      |
|---------------------------------------|----------------------|
| Funding Request Number:               | 1205994              |
| Services Ordered:                     | INTERNAL CONNECTIONS |
| SPIN:                                 | 143030052            |
| Service Provider Name:                | Calence, LLC         |
| Contract Number:                      | 2118728              |
| Billing Account Number:               | N/A                  |
| Site Identifier:                      | 216840               |
| Original Funding Commitment:          | \$268,294.93         |
| Commitment Adjustment Amount:         | \$268,294.93         |
| Adjusted Funding Commitment:          | \$0.00               |
| Funds Disbursed to Date:              | \$154,619.31         |
| Funds to be Recovered from Applicant: | \$154,619.31         |

During the course of an audit it was determined that the applicant signed a contract with the service provider prior to the expiration of 28-day posting period. FCC rules require that, except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement, or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was February 3, 2004. Based on the documentation provided, it cannot be determined if the service provider was selected after the 28 days. Since it cannot be determined if the service provider was selected after the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

PLEASE SEND A COPY OF THIS PAGE WITH YOUR  
CHECK TO ENSURE TIMELY PROCESSING

**USAC**  
Universal Service Administrative Company  
Schools and Libraries Division  
Correspondence Unit  
30 Lanidex Plaza West  
PO Box 685  
Parsippany, NJ 07054-0685



**TIME SENSITIVE MATERIAL**

00158  
Ulysses Soria  
KIPP INC.  
10711 Kipp Way  
Houston, TX 77099

## Exhibit B

**From:** Weingarten, Susan [mailto:SWEINGA@sl.universalservice.org]  
**Sent:** Monday, May 02, 2011 8:40 AM  
**To:** Ulysses Soria  
**Subject:** FCC Form 471 # 433110-Demand Payment Letter FRN 1205994

Hello Uly,

Eileen Densmore suggested I email you to confirm receipt, via US Mail, of a Demand Payment Letter for Fund Year 2004. The FRN is 1205994.

The letter was also sent to Catherine North, as she was the original applicant contact. The letter to her was returned "Forwarding Time Expired".

Please confirm that you are in receipt of this letter.

Thanks,

*Susan*

**Susan Weingarten**  
**Associate Manager**  
**Program Compliance**  
**Schools and Libraries Division**  
**Office: 973-581-5198**  
**Fax: 973-599-6582**  
**email: sweinga@sl.universalservice.org**

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